

**AMENDED DECISION  
WALPOLE BOARD OF APPEALS CASE NO. 22-16**

**APPLICANT**

**William T. Corbo Jr.**

**LOCATION OF PROPERTY INVOLVED:**

**1000 West Street  
Walpole Assessors Lot No. 39-234**

**APPLICATION:**

A Special Permit under Sections 2, 9 and 5-B.1.3.e. of the Zoning Bylaw to allow the detached cottage to be occupied and used as a lawful non-conforming residence, or in the alternative, conversion of the primary residence and cottage for use as a two-family located at 1000 West Street, Walpole, MA 02081

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On March 15, 2017 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to granting of the Special Permit requested. The members who were present and voting:

Matthew Zuker, Chairman  
James DeCelle, Vice Chairman  
Craig Hiltz, Clerk  
Susanne Murphy, Member  
Mary Jane Coffey, Member

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**VOTE OF THE BOARD:**

A motion was made by Ms. Murphy and seconded by Ms. Coffey to grant the Special Permit with conditions under Sections 2, 9 and 5-B.1.3.e. of the Zoning Bylaw to allow the detached cottage to be occupied and used as a lawful non-conforming residence, or in the alternative, conversion of the primary residence and cottage for use as a two-family, Located at 1000 West Street, Walpole, MA 02081.

The vote was 4-1-0 in favor (Zuker, DeCelle, Murphy, Coffey voting in favor; Hiltz opposed); therefore, the Special Permit under Sections 2, 9 and 5-B.1.3.e. is hereby granted subject to the following conditions:

1. The detached cottage shall not be held in separate ownership from the principal dwelling unit.

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2. The lot of land associated with the detached cottage shall not be subdivided.
3. The property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Board of Appeals, Town Clerk and Building Department.
4. When ownership of the property changes, the new owner shall notify the Building Commissioner so as to update the detached cottage.
5. The square footage of the detached cottage shall be as shown on the plan submitted with the Application, no footprint alterations shall be done; the cottage shall maintain similar characteristics to the present building.
6. The Applicant shall receive a Certificate of Occupancy from the Building Department before occupying the detached cottage.
7. The primary residence remains a single, lawful dwelling
8. The parking and driveway for the house and detached cottage shall remain as-is. If the Applicant wishes to change the driveway, the proposed change will have to be reviewed and approved by the Board.
9. The Applicant will work with the Fire Department and E911 to determine if the detached cottage requires its own address.
10. The proposed, non-conforming use of the detached cottage shall not be detrimental to the neighborhood.

### REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Sections 2, 9 and 5-B.1.3.e. to allow the requested cottage in the Residence District. The Board finds that the cottage is in character with and follows the intent of the Residence District. The Board finds that the cottage has been taxed as a single bedroom, with an approved separate septic system. The Board finds that the amount of land (approximately 8 acres) is acceptable. Accordingly, the Board has determined that the Special Permit requested is warranted.

### FURTHER FINDINGS

Section 2: Administration, 2. Special Permits, B. Finding and Determination requires that:

**(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:**

**(a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;**

The Board finds that the cottage complies with all of the criteria and that this conditions is satisfied.

- (b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The Board finds that as conditioned above, this criteria is satisfied.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that the cottage should not have an adverse effect on the neighborhood. The use will remain residential in nature and will have no employees or customers. Accordingly, the Board finds that this condition is satisfied.

- (d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that as shown on the plans submitted with the Application, this condition is satisfied.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the use is residential in nature and there is nothing being used to cause any danger to the immediate neighborhood of the premises through fire, explosion, emissions of waste or other causes and this condition is satisfied.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed use is residential in nature. There is nothing being used, generated or otherwise that would create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood. Therefore, this condition is satisfied.

- (g) shall not adversely affect the character of the immediate neighborhood; and**

The Board finds that the immediate neighborhood is residential in nature and the proposed undertaking is consistent with the area and immediate neighborhood. Thus, this condition is satisfied.

- (h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.**

The Board finds that the Special Permit has been conditioned appropriately, is entirely compatible with the purpose of the Zoning Bylaw and this condition is satisfied.

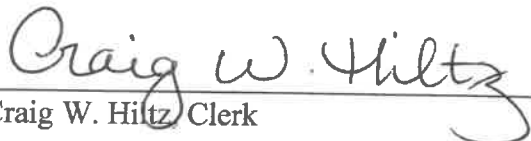
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Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

**APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLE ZONING BOARD OF APPEALS

  
Craig W. Hiltz Clerk

CH/am

cc: Town Clerk                      Engineering                      Planning Board  
      Board of Selectmen      Building Inspector          Conservation Commission

This *amended* decision was made on March 15, 2017 and filed with the Town Clerk on March 28, 2017.